

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.1262 of 2007

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Dated: September 21, 2007
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Between:

Savana Venkata Subba Naidu,
S/o. S. Venkataiah Naidu,
aged about 49 years, R/o. S.V. Nagar,
Rajampet, Kadapa District.

... Petitioner

And

The District Registrar, Registration and Stamps,
Kadapa District, and another.

... Respondents

Order:

This writ petition has been filed questioning the order dated 03-01-2007, passed by the first respondent, District Registrar, Registration and Stamps, Kadapa District, holding that Gift Deed No.3/06 executed by the petitioner in favour of S. Narayanamma in respect of land admeasuring Ac.0.30 cents in Sy.No.961/D/1B of Rajampet Village, Kadapa District, cannot be registered as illegal and

arbitrary.

2. Heard learned counsel for the petitioner and learned Government Pleader for Revenue appearing for the respondents.

3. Petitioner claims to be the owner and possessor of the aforesaid land. It is stated that when Gift Deed No.3/06 executed by him in favour of one S. Narayanamma was presented for registration, the same was refused by the second respondent, Sub-Registrar, Rajampet. It is stated that challenging the same, petitioner has filed an appeal before the first respondent, District Registrar, Kadapa, who by the impugned order held that the land in question is a Government land and hence it cannot be registered.

4. When petitioner has presented the gift deed for registration, the same was refused by the second respondent and reasons for such refusal were recorded. The appeal filed by the petitioner against the order of the primary authority before the first respondent has also been rejected by the impugned order on the ground that the land in question belongs to Government.

5. Learned counsel for the petitioner submits that petitioner is the absolute owner and possessor of the land in question and hence respondents cannot refuse to register the gift deed.

6. Respondents have filed counter affidavit stating that the Tahsildar, Rajampet passed order dated 28-07-1983 granting lease over an extent of Ac.1.50 cents in Sy.No.961/D/1b in favour of Smt. S. Subbalaxmamma, the mother of the petitioner. It is stated that when the said Subbalaxmamma approached this court for a direction to the respondents therein not to interfere with her possession over the land in question, directions were issued not to dispossess her from the

land in question except in accordance with law and it was also observed that the said land shall not be alienated and no third party interest shall be created. It is also stated that in view of Section 77 of the Registration Act, 1908 ('the Act' for brevity) writ petition is not maintainable.

7. Prima facie, it appears that the land in question is a Government land. As per Section 22-A of the Act, as amended by Registration (Andhra Pradesh Amendment) Act, 2006, documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in respect of immovable property owned by the State or Central Government executed by persons other than those statutorily empowered to do so, are prohibited from registration. In any event, the question as to who is the owner of the land in question cannot be decided in this petition filed under Article 226 of the Constitution of India. In view of availability of alternative remedy to the petitioner by way of civil suit, I do not find any grounds to grant relief as prayed for.

8. The writ petition is accordingly dismissed keeping open to the petitioner to avail any other remedy open under law. No order as to costs.

JUSTICE R. SUBHASH REDDY.

September 21, 2007

MRR